

Sharayu Khot.

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION**

CHAMBER SUMMONS NO. 1078 OF 2018

IN

SUIT NO. 77 OF 2009

Sulochna Madhavlal Pittie

**...Applicant/
Org. Plaintiff No. 2**

In the matter between

Madhavlal Narayanlal Pittie & Ors.

...Plaintiffs

Versus

**Bachharaj & Company Private Limited &
Ors.**

...Defendants

Mr. Zal Andhyarujina, a/w Mr. Abhay Jadeja and Pratyusha Panchagani, i/by Crawford Baylay & Co., for the Applicant.

Ms. Sneha Phene, a/w Ms. N. Vinod, i/by Rashmikant and Partners, for the Defendant No. 2.

Mr. G. Krishnan, i/by Malvi Ranchoddas & Co., for Respondents No. 1, 3, 4 and 6.

Mr. Atit Shukla, a/w Dharmesh Pandya, i/by M/s. Ashwin Pandya & Associates, for Defendant No. 7.

CORAM : R.I. CHAGLA J.

DATE : 26 August 2019

ORDER :

1. This Chamber Summons has been taken out for formal deletion of the original Plaintiff No. 1 who had expired on 11th April

2018. The Applicant is the wife of the deceased original Plaintiff No.1. The Chamber Summons was taken out on 5th September 2018.

2. The learned Counsel for the Applicant states that the will of the original Plaintiff No. 1 has been probated and the heirs of the original Plaintiff No. 1 viz. Plaintiff No. 2 and Plaintiff No. 4 have received their respective shares of the estate of original Plaintiff No. 1. He states that as the heirs of the original Plaintiff No. 1 are already on record as the Plaintiffs No. 2 and 4, they are not required to be brought on record.

3. The learned Counsel for the Defendants No. 1, 3, 4 and 6 opposes the Application stating that the requisite steps were not taken by the Applicant/original Plaintiff No. 1 within the prescribed time for deletion of the original Plaintiff No. 1 whereas in all the other proceedings steps have been promptly taken within the prescribed time for deletion of the original Plaintiff No. 1 by the heirs of the original Plaintiff No. 1. He has stated that the reason given in the Affidavit in support of the Chamber Summons that the delay in taking out the Application is on account of the family members of the original Plaintiff No. 1 being in grief, is a wrong as well as an

insufficient reason for the delay in taking out the Application. The learned Counsel for the Defendant No. 2 has supported these submissions.

4. This proposed amendment is merely a formal amendment of the Plaint by deletion of the original Plaintiff No. 1, who had expired. Further, there are no heirs of the deceased original Plaintiff No. 1 which are required to be brought on record as the only heirs of the deceased are already on record as Plaintiffs No. 2 and 4. The estate of the original Plaintiff No. 1 has also been distributed in the respective shares of Plaintiffs No. 2 and 4. Hence, the opposition of the Defendants to the amendment of the Chamber Summons on grounds of delay cannot be accepted. Accordingly, the Chamber Summons is made absolute in terms of prayer clause (a).

5. The Applicant shall carry out the amendment within a period of one week from the date of this order.

6. The Chamber Summons is accordingly, disposed of.

[R.I. CHAGLA J.]